

# Part One, Sections 1-11

## 1. Contact/General Information

- A. Full legal name and any former names: Karen Anne Wyle
- B. State the full name (use initials for minor children), age, and relationship of each person residing in your household. For each adult living in the household (other than yourself), also state the person's occupation and employer.

Clyde Paul Hager, Jr.: husband, computer scientist for the Department of the Navy

- C. Business address, email, and telephone number.

4475 N. Benton Court  
Bloomington, IN 47408-9564  
[kawyle@att.net](mailto:kawyle@att.net)  
(812) 333-1384

- D. Attorney number: 14756-53
- E. Month and year you were admitted to the Indiana Bar: September, 1989
  - a. Indicate current law license status, i.e. active/inactive/retired: active
  - b. If you are or have been a member of the Bar of any other state, identify the jurisdiction and provide date(s) of admission and current license status.

Inactive member of California bar, admitted December 1980

- F. Date and place of birth: August 4, 1955, in Hartford, CT
- G. County of current residence and date you first became a resident: Monroe County, May, 1989

## 2. Secondary Education/Military Experience

- A. List all undergraduate colleges and universities you attended. Include the school name; dates enrolled; degree or certificate earned; and any academic honors, awards, or scholarships you received and when.

Stanford University, Fall 1973 – Spring 1977  
B.A., English and American Literature, Graduated With Distinction  
Phi Beta Kappa, January 1, 1977

- B. Include with your original application a certified transcript from each school named in Subsection 2A, and attach copies of each transcript to each

application copy. (If your social security number is on your transcripts, redact it *before* copying.)

- C. If applicable, list any military service. Include the name of the military branch; dates of service; last rank achieved; and any honors, awards, or commendations received and when. Attach a copy of your Certificate of Release or Discharge from active duty ("DD 214" paperwork). – Not applicable

### 3. Post-Secondary Education

- A. List all law schools, graduate schools, and post-J.D. programs attended. Include the school name; dates enrolled; degree or certificate earned; class rank; and any academic honors, awards, or scholarships you received and when.

Harvard Law School, Fall 1977 – Spring 1980

J.D., cum laude

HLS does not, and did not then, compute or provide class ranks.

- B. Include with your original application a certified transcript from each school named in Subsection 3A, and attach copies of each transcript to each application copy. (If your social security number is on your transcripts, redact it *before* copying.)

### 4. Employment

- A. Provide your employment history since graduation from college. Include name of employer, titles or positions, locations, and dates of employment.

(In reverse chronological order)

10/93 – present: Solo practice – appeals and major motions - Bloomington, IN

12/90 - 9/93: Of counsel, Cotner, Andrews, Mann & Chapman - Bloomington, IN

5/89 - 11/90: Independent associate - Bloomington, IN

5/87 - 4/89: Judicial attorney, California Court of Appeal, Fourth District,

Division Three - Santa Ana, CA

10/84 - 4/87: Independent associate - Los Angeles, CA

2/83 - 9/84: Associate, Jeffer, Mangels & Butler - Los Angeles, CA

10/80 - 12/82: Associate, Pettit & Martin - San Francisco, CA

Summer 1979: Luce, Forward, Hamilton & Scripps – Washington, D.C.

(temporary office)

Summer 1978: Summer associate, Albert & Oliker – Los Angeles, CA

- B. If applicable, describe the nature and extent of your practice of law (present and former), and provide the names of your partners, associates, office mates, and employers.

Solo appellate and major motion practice (primarily civil) with clients throughout Indiana; retained to file amicus briefs in various state supreme courts and in U.S. Supreme Court.

5. Trial/Judicial Experience

- A. Describe the extent of your jury trial experience, if any: none
- B. Describe the extent of your bench trial experience, if any: second chair in one or more bench trials and administrative hearings while practicing law in California
- C. If applicable, describe the nature and extent of your judicial experience (including as a judge *pro tempore*). Include a description of your experience presiding over jury trials, if any: not applicable

6. Professional Experience

***Include as writing samples, four selections (in total) from the written materials listed below in Subsections 6A – 6C.***

- A. If applicable, list up to five trial or appellate briefs and/or judicial opinions you have written. Refer to them by caption, case number, and filing date.

In chronological order (Indiana cases except where indicated):

- 1. Brief in Support of Petition to Transfer, *Yoon v. Yoon*, Case No. 49S02-9906-CV-353, filed on or about November 17, 1997
- 2. Brief of Amicus Curiae, the Coalition for the Restoration of Parental Rights, *Troxel v. Granville*, U.S. Supreme Court Case No. 99-138, filed December 8, 1999
- 3. Brief of Appellant, *Wright, et al. v. Carpenter*, Case No. 28A01-0303-CV-00114, filed June 18, 2003
- 4. Brief of Appellee, *Hayes v. Chapman*, Case No. 53A05-0802-CV-00084, filed June 4, 2008
- 5. Brief of Appellee, *Rink v. Rink*, Case No. 29A02-1503-DR-00189, filed August 27, 2015

- B. If applicable, list up to five legislative drafts or court rules you have written or to which you contributed significantly. Refer to them by official citation, date, and subject matter.

*Minutes of Indiana Child Custody and Support Advisory Comm.* Exhibit “3” (Sept. 29, 2003): proposed revision of I.C. §§ 31-17-5-1 et seq., Indiana’s grandparent visitation statute

- C. If applicable, list up to five of your contributions to legal journals or other legal publications. Provide titles, official citations, and a brief description of the subject matter.

Karen A. Wyle, *Fundamental Versus Deferential: Appellate Review of Terminations of Parental Rights*, 86 Ind. L.J. Supp. 29 (2011) (also published in revised form as Karen A. Wyle, *Fundamental Versus Deferential: Appellate Review of Terminations of Parental Rights*, Res Gestae, May 2011, at 13).

This article surveyed the results in appeals from terminations of parental rights, in comparison to other civil appeals and other family law appeals; discussed the constitutional problems with those results and related procedures; and offered various alternatives to how such appeals are currently handled.

The Indiana State Bar Association awarded this article a Third Place Harrison Legal Writing Award in October 2011.

- D. Identify the five most significant legal matters entrusted to you, whether as a judge or lawyer, and describe why you believe them to be so.

1. Removal of Personal Professional Goodwill from Marital Estate

In 1997, I was retained to appeal a dissolution decree in which a doctor received almost none of the marital estate's tangible assets, which were substantial, because he had been awarded the "goodwill" in his medical practice. (Goodwill is an intangible asset, including such elements as a business' location and reputation.)

At that time, applicable case law, established at the Court of Appeals level, included professional goodwill in the marital estate. After the Court of Appeals affirmed the trial court's decision, we successfully petitioned for transfer, and in *Yoon v. Yoon*, 711 N.E.2d 1265 (Ind. 1999), the Supreme Court held for the first time that professional goodwill arising from the efforts and capabilities of an individual could not be included in the marital estate. This decision made a profound difference to many professionals considering whether to seek dissolution of their marriages.

I had co-counsel, David A. Clase of Indianapolis, who was involved in the case before I was retained, and I consulted with him on various points.

2. Representing "Friend of the Court" in Landmark Parental Rights Case

In 1998, I was retained to appeal a grandparent visitation order. (Such orders allow a grandparent to spend time with a child, or have some specified amount and kind of contact with a child, e.g. overnight or out-of-state visits, despite the custodial parent's belief that such contact is not in the child's best interests.)

I attempted to raise the constitutional issues involved in such orders, but as these issues had not been preserved at trial, the Court of Appeals declined to consider

them. However, my client thought enough of my work that when the U.S. Supreme Court granted cert in *Troxel v. Granville*, the first grandparent visitation case to come before that court, he recommended that the Coalition for the Restoration of Parental Rights (CRPR) retain me to write an amicus or “friend of the court” brief (a brief filed by a person or organization not actually involved in the case, intended to explore issues that the parties might not discuss in depth).

While there is no way (without inside information I lack) to determine whether individual Justices or their clerks read a particular amicus brief, there was at least one indication in Justice Thomas’ concurring opinion that he and/or one or more of his clerks had read the brief I submitted on CRPR’s behalf. The *Troxel* decision established, for the first time, (a) that trial courts must approach grandparent visitation disputes with the rebuttable presumption that a fit custodial parent’s decisions concerning grandparent visitation are in the children’s best interests, and (b) that the courts must give special weight to the parent’s assessment of those best interests.

### 3. Bringing *Troxel* Home: Protecting Parental Rights in Indiana

I represented the appellant in *Crafton v. Gibson*, the first grandparent visitation appeal to reach the Indiana Court of Appeals following the *Troxel* decision discussed in subsection 6.D.3. above. The decision in that appeal established that Indiana trial courts could no longer “take a neutral stance” in ruling on grandparent visitation disputes, but must instead apply a rebuttable presumption in favor of fit custodial parents.

### 4. Defending a City’s Authority to Act Pursuant to a Public Purpose

In 2003, I represented the mayor and city council members of the City of Linton, as well as the city itself, in an interlocutory appeal (*Wright et al. v. Carpenter*). The trial court’s order required the city to remove a steel handrail in order to accommodate a businessman who wished to remodel the adjacent property and place a driveway where the railing crossed. The railing had been put in place to comply with the Americans with Disabilities Act (ADA), to improve public safety, and to make the downtown area more attractive. At some point following the plaintiff’s purchase of the property, the building on the property collapsed, and the relevant portion of the handrail was temporarily removed to allow removal of the debris. The city had no planning or zoning ordinance, which left considerable ambiguity as to the procedures that the businessman and the city should follow.

The Court of Appeals held that the reinstallation of the handrail did serve a public purpose and reversed the preliminary injunction. I regard this matter as significant due to its protection of the city’s ability to comply with the ADA and protect public safety.

## 5. Parental Rights and the Right to Counsel

I include this case for its rarity – few terminations of parental rights are reversed, even on procedural grounds – and for the importance of the rights at stake. It was reported as *D.A. v. Monroe County Dept. of Child Services*, 869 N.E.2d 501 (Ind.Ct.App. 2007). It does not appear in the Court’s online docket, as the case has been sealed.

As related in the opinion, a therapist from Family Solutions, which supervised the father’s visits with his children, testified favorably about his parenting skills and his relationship with the children. The attorney appointed to represent the father had also been appointed to represent him in an earlier CHINS case. (CHINS stands for Child in Need of Services. A CHINS proceeding is sometimes, but not always, followed by a petition to terminate a parent’s parental rights.) That attorney had failed to appear for a pretrial conference in that case, and eventually moved to withdraw due to difficulties in reaching her client. The attorney moved to withdraw from the termination proceeding as well, without informing the father that she had filed such a motion.

The court set the withdrawal motion for hearing on the same date set for the termination hearing, but did not inform Father of the date set for either hearing. The court then heard and granted the withdrawal motion during a related hearing the day before. The father failed to appear for the termination hearing, and lost his parental rights. The Court of Appeals reversed and remanded for a new and “proper” termination hearing.

## 7. Efforts to Improve the Legal System, Administration of Justice, or Society

- A. Describe your efforts, achievements, or contributions (including written work, speeches, or presentations) toward the improvement of the law, the legal system, or the administration of justice. Include a description of any management or leadership roles you undertook to achieve these goals, and describe any specific instances in which your collaborative efforts helped achieve these goals.

### 1. Assisting Parents, Educating the Public, and Educating Legislators

As described further in subsection D. below, I have for many years attempted to make parents and their attorneys more aware of developments in the law governing grandparent visitation disputes. I have also testified in various legislative committee hearings and contacted various state legislators to discuss possible revisions of the statutes governing such disputes. In 2010, I was among the first attorneys to sound the alarm as to a well-intended but troubling bill that would have significantly increased the amount of grandparent visitation litigation in Indiana, including suits against intact families. I played a substantial role in organizing the effort to educate legislators about the drawbacks of this bill, an effort in which the Indianapolis Bar Association’s Family Law Division and Legislative Affairs Committee and members

of the Indiana State Bar Association's Family Law Section took part. The bill, which had been on the fast track to passage, was eventually defeated.

## 2. Proposing Revisions of Rules and Statutes Governing the Procedures for Terminating Parental Rights

The law review article listed in Section 6.C., above, proposed revision of Indiana's statutes and rules concerning termination of parental rights, with the goal of better protecting the fundamental constitutional rights at stake in such proceedings.

## 3. Promoting Mediation and Addressing Various Systemic Issues Via a Judicial Campaign

In 2014, I ran for the office of Monroe Circuit Court Judge on a platform that included encouraging mediation and recruiting new mediators; ensuring that trial attorneys felt comfortable in making a complete record for any future appeal; reducing delays and increasing efficiency; and attempting to reduce the confusion and emotional dislocation suffered by many litigants.

- B. Describe your efforts, achievements, or contributions (including written work, speeches, or presentations) concerning civic, political, or social issues. Include a description of any management or leadership roles you undertook in this area, and describe any specific instances in which your collaborative efforts in this area led to a successful result.

### 1. Establishing a Volunteer Guardianship Program for Elderly and Incapacitated Adults

I am a member of the Advisory Council (formerly the Elder Justice Task Force) that recently established Monroe County's Volunteer Guardianship Program for elderly or incapacitated adults in need of such services. For more information about this program, see the press release at <http://www.monroeprosecutor.us/wp-content/uploads/2015/09/PRESS-RELEASE-New-Volunteer-Guardianship-Program-2.pdf>.

### 2. Assisting in School District Textbook Review for Math and Science

Some years ago, I was part of and took an active role in the Monroe County Community School District's textbook review committee for math and science texts. (Neither the school district nor I have been able to find the dates, but I would estimate it was eight to ten years ago.)

- C. Describe your efforts, achievements, or contributions (including written work, speeches, or presentations) to improve your local, state, or national community through charitable work or public service. Include a description of any management or leadership roles you undertook in this area, and describe any specific instances in which your collaborative efforts in this area led to a successful result.

As described in more detail in A. above, I have taken an active role in advising various state legislatures about the constitutional and public policy issues involved in

grandparent visitation statutes, and helped lead a successful effort to block a bill that would have significantly increased the number of Hoosier families subjected to intrusive and burdensome litigation. Also described in A. above: my efforts, via my campaign for Monroe Circuit Court Judge, to promote the use of mediation and to increase public understanding of the judicial process

As described in more detail in B. above, I am part of the local group that recently established a volunteer guardianship program for elderly or incapacitated adults, and also served on a committee to evaluate math and science textbooks.

- D. Describe the nature and extent of any *pro bono* legal services you have contributed.

1. Pro Bono Distribution of Material to Assist Attorneys Handling Grandparent Visitation Disputes

As discussed in A. above, I have, for the last fifteen years, distributed information to custodial parents for their attorneys' use or directly to those attorneys. This information concerns the constitutional and public policy aspects of grandparent visitation disputes, in which I gained some expertise through my involvement in the *Troxel v. Granville* case (see Section 6.D. above) and subsequent cases. I do not charge for this service.

2. Assisting Pro Se Litigants

When potential clients cannot afford to retain me for an appeal, I give them an overview of the appellate process and answer a limited number of questions without charge.

- E. Indicate your experience teaching law. Provide the dates, names of institutions or programs, and a description of the subject matter taught.

1. Educating Litigants About the Appellate Process

I have no formal teaching experience. However, my practice involves constant public education. Potential clients rarely have much understanding of the appellate process, and our initial telephone consultation includes what I call my "Appeals 101" summary. Then as the appeal proceeds, I generally need to explain such matters as the purpose and permissible contents of appellate briefs.

2. Helping Voters Understand the Judicial System

During my 2014 campaign for Monroe Circuit Court Judge, I particularly enjoyed those appearances in which I could help voters to better understand the duties of a trial court judge and the overall structure of the court.

3. Producing A Reference Work for Anyone Wishing to Better Understand American Civil and Criminal Law

Most recently, I have written and published a nonfiction reference work, *Closest to the Fire: A Writer's Guide to Law and Lawyers*. Its initial aim was to help authors explore

the many dramatic possibilities awaiting them in the legal landscape, while avoiding the equally numerous pitfalls. In the process of publishing and promoting this book, I have come to realize that it can also be of use and interest to students and to the general public.

## 8. Memberships and Other Activities

- A. List any memberships and offices you have held in professional organizations, including dates and descriptions of the purposes of the organizations and of your involvement.

1. Indiana State Bar Association: member of the ISBA itself from July 26, 1991 to the present, and of its Appellate Practice section from June 21, 2002 to the present

2. Monroe County Bar Association (from some date not available in their or my records to the present)

- B. List any memberships and offices you have held in civic, charitable, or service organizations, including dates and descriptions of the purposes of the organizations and of your involvement.

As discussed in 7.B. above, I am a member of the Advisory Council that recently established Monroe County's Volunteer Guardianship Program for elderly or incapacitated adults.

- C. List any memberships you hold in social clubs or organizations. If any restrict its membership on the basis of race, sex, religion, or national origin, please describe your efforts within the organization to eliminate restrictions.

I am a member of the Writer's Guild at Bloomington and of Bloomington's chapter of National Novel Writing Month participants. Both groups combine social activities with pursuit of the members' various writing goals. Neither restricts membership in any way.

- D. Describe your hobbies and other leisure activities.

I am an author of both fiction (mostly science fiction) and nonfiction (the reference work described in Section 7.E. above). I was at one time a professional photographer and still dabble in photography. I read both fiction and nonfiction voraciously. I follow state and national politics and enjoy discussing political topics – often with my very knowledgeable husband. I also enjoy spending time with, and occasionally assisting, our two grown daughters.

## 9. Legal Proceedings

- A. List any lawsuits or legal proceedings in any jurisdiction, including but not limited to bankruptcies, dissolutions, and criminal matters to which you have been a party. Provide dates, case numbers, courts, names of other

parties, and, if needed, a brief explanation. (If minor children are involved [i.e. an adoption], use initials only.) -- None

- B. If you ever have been arrested or cited for any violation of the law other than for routine traffic violations, provide dates, jurisdictions, and an explanation of the event and its resolution. – Not applicable
- C. If you have been disciplined or cautioned, formally or informally, by the Indiana Supreme Court Disciplinary Commission, by the Indiana Commission on Judicial Qualifications, by the Indiana Supreme Court, or by similar entities in any other jurisdiction, identify each instance by date, case number (if applicable), and describe the circumstances and the nature of the outcome or resolution. – Not applicable
- D. If you have any outstanding federal, state, or local tax obligations, please itemize and explain. -- None

#### 10. References

- A. Provide the names of three attorneys who have been your professional adversaries in your practice or who have litigated substantial cases in your court and who would be in positions to comment on your qualifications for appointment to the Indiana Supreme Court (contact information to be included in Part Two of this application).

- 1. Tammy M. Minger
- 2. Donna F. Pratt
- 3. Zachary J. Stock

- B. Provide the names of three professional references other than those listed in Subsection 10A (contact information to be included in Part Two of this application).

- 1. Ronald L. Chapman
- 2. Debra K. Herthel
- 3. Catherine Stafford

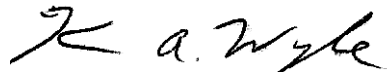
- C. Provide the names of three personal references other than those listed in Subsection 10A or 10B (contact information to be included in Part Two of this application).

- 1. Chasity Boatman
- 2. William Ellis
- 3. Lehsa Griebel

#### 11. State Police Release Form and Photograph

- A. Complete a State Police release form printed on green paper (you may obtain the release form by contacting the Nominating Commission Office at 317-232-4706). Include the release form with the original application only and not with the copies.
- B. Attach a recent photograph of you to the front of the original application and to each copy of your application. (This allows the Commission members to put a face with a name if you are interviewed in person.)

1-22-16



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Date

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Applicant Signature

Karen A. Wyle

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Printed Name